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REMARKS

In the Non-Final Office Action of May 15, 2006, claims 1-4 and 6-20 are pending. Claims 1 is herein amended solely at the request of the Examiner and is not herein amended to in anyway limit the scope of the claim. Claims 1, 9, and 20 are independent claims from which all other claims depend therefrom.

The Office Action states that claim 1 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action states that claim 1 lacks a clear statement of intended use in the preamble and thus lacks a proper preamble. Applicant, respectfully, traverses. Applicant notes that the "statement of intended use" requirement only applies to design patent application claims, as in the Office Action cited references of *In re Casey*, 152 USPQ 235 (CCPA 1967) and *Kropa v Robie*, 88 USPQ 478 (CCPA). Also, not that the Office Action recited references only provide guidance on how to interpret and limit a preamble and guidance as to what weight should be given to a preamble. The references do not state what is required of a preamble and especially not what is required of a utility patent application claim preamble.

Applicant is unable to find any requirement for an intended use statement with respect to a utility patent application claim, such as claim 1. Applicant believes that a preamble of a utility patent application merely provides a general setting or context in which the elements of a claim appear. Applicant also believes that a preamble may be of any length and can be very short and broad in nature and that a preamble that is short and broad is generally preferred. See Landis on Mechanics of Patent Claim Drafting, Fifth Edition sections 2:4 and 3:2.

Applicants believe that the previously presented preamble of "A sensing system for a vehicle comprising:" is more than sufficient. Applicant could have submitted a preamble, such as "A vehicle comprising:" or "A

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sensing system comprising:". Nevertheless, in an attempt to satisfy the Examiner, the preamble is amended herein to "A safety sensing system for a driven vehicle comprising:". Should the Examiner agree with the Applicant that the previously presented preamble is sufficient, Applicant requests that the amendment provided herein be disregarded.

Applicant believes that the 35 U.S.C. 112 rejection is improper and overcome.

The Office Action also states that the claims ought to be restricted out for patentably distinct species. The Office Action groups claims 1-20 into a Group I having claims 1-4 and 6-19 and into a Group II having claim 20. Applicant submits that regardless of whether patentably distinct species are claimed, that all of the claims have been reviewed and examined time-and-time again. The current case has four non-final office actions, one final office action, and one appeal brief associated therewith. To restrict the case out at this point would only delay the allowance of the Applicant's patent rights and cause undue expense and burden on the Applicant.

Applicant also submits that all of the limitations in claim 20 are recited in the claims of Group I, specifically they are raised in claims 1 and 7 and in claims 9 and 16. As such, it would not be further burdensome for the Examiner to examine all of the claims, as opposed to just claims 1-4 and 6-19. Nevertheless, Applicant herein elects Group I with traverse. Should the Examiner agree with the Applicant that a Restriction is inappropriate at this time, Applicant requests that the Election herein be disregarded. Also, should a Restriction stand, Applicant reserves the right to amend claims 1-4 and 6-19 to include features or limitations that are further directed to an adaptive cruise control system, especially since claims 1-4 and 6-19 broadly cover such features and limitations.

On page 3 of the Office Action, the Examiner states that the main concept of this application is automatically adjusting speed using a vehicle camera and that this idea is not in independent claims 1 and 9. Applicant

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Applicant does not intend the scope of the application or the coverage of the claims to be limited as such. As stated in paragraph [0029] of the application a vision sensor may be a camera, a charged-coupled device, an infrared detector, a sensor formed of a series of photodiodes, a complementary metal-oxide semiconductor, or other vision sensor known in the art. Applicant submits that to limit claims 1 and 9 to a camera would be to unduly narrow or limit the Applicant's patent rights, when such limitations are not needed or justified in order to get over the prior art. Thus, claims 1 and 9 are not herein amended as suggested by the Examiner for the above-stated reasons.

On page 3 of the Office Action, the Examiner requests that claim 20 be amended to explain how to reduce the speed of the vehicle using a single vision sensor. Again, Applicant submits that a further narrowing limitation is not needed or justified in order to get over the prior art.

Claim 20 states that the controller reduces the speed of the vehicle in response to the range of the object and that the range is determined based on the size and vertical up-angle of the object, which is based on the position coordinates of the single vision sensor. Applicant has shown that the prior art does not teach or suggest the stated limitations. To further recite specifically how the range, how the size and vertical up-angle, and/or how the position coordinates are determined when more than one technique may be used for each would be again to narrow the Applicant's patent rights when such narrowing is not justified. Multiple examples of each are provided and described in the Figures and specification of the present application, see Figures 2, 3A and 3B and paragraphs [0044]-[0057]. Thus, claim 20 is not herein amended as suggested by the Examiner for the above-stated reasons.

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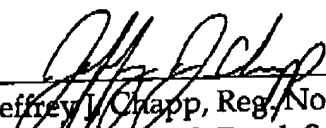
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In light of the amendments and remarks, Applicant submits that all the rejections are now overcome. The Applicant has added no new matter to the application by these amendments. The application is now in condition for allowance and expeditious notice thereof is earnestly solicited. Should the Examiner have any questions or comments, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

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